

Assembly Bill No. 208

CHAPTER 802

An act to amend Sections 44003, 44021, 44037.1, 44060, 44081, 44091, and 44101 of, to add Section 44024.5 to, and to add and repeal Section 44091.1 of, the Health and Safety Code, to amend Section 6262 of the Revenue and Taxation Code, and to repeal Section 4000.7 of the Vehicle Code, relating to air pollution.

[Approved by Governor October 8, 1997. Filed
with Secretary of State October 9, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 208, Migden. Vehicles: inspection and maintenance: high polluter repair or removal.

(1) Existing law establishes a High Polluter Repair or Removal Program administered by the Department of Consumer Affairs and the State Air Resources Board for the repair or removal of high-polluting motor vehicles. Existing law establishes the High Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund, and requires money deposited in the account, including donations, grants, and payments that exempt a vehicle upon the 2nd renewal of the registration from the requirement for a biennial smog check, to be available for purposes of the program. Existing law requires the department and the state board to seek federal funds and explore other funding sources for deposit in the account.

Existing law imposes a \$300 smog impact fee on certain vehicles previously registered outside the state and requires those revenues to be deposited in the General Fund.

This bill would revise the specification of vehicles that are subject to that fee, require those smog impact fee revenues, on and after July 1, 1998, to be instead deposited in the High Polluter Repair or Removal Account, and specify the purposes for which money in the account may be used. The bill would declare the intent of the Legislature to identify new funding sources for the program.

The bill would subject vehicles that would be exempt from the biennial smog check certificate requirement because they are 4 or less model years old to an annual smog abatement fee of \$4 and increase that fee to \$6 for a specified period if the state is unable to impose or collect the smog impact fee, as specified. The bill would specify the disposition of those fee revenues.

The bill would authorize the department to conduct a pilot program to exempt certain vehicles from the biennial certificate requirement, and to establish that program permanently, as

specified, and would impose related duties on the department, the state board, and a specified review committee which the bill would designate as the Inspection and Maintenance Review Committee.

(2) Existing law requires the state board to adopt, by regulation, by June 30, 1997, a statewide program, to commence in 1998, to provide for emission reduction credits for retiring light-duty vehicles.

This bill would extend those dates to December 31, 1998, and 1999, respectively.

(3) The bill would become operative only if both AB 57 and AB 1492 are enacted and take effect on or before January 1, 1998.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to identify new funding sources for the High Polluter Repair or Removal Account created by Section 44091 of the Health and Safety Code to provide financial assistance to motorists in the state who own high-polluting vehicles.

SEC. 2. Section 44003 of the Health and Safety Code is amended to read:

44003. (a) (1) An enhanced motor vehicle inspection and maintenance program is established in each urbanized area of the state, any part of which is classified by the Environmental Protection Agency as a serious, severe, or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide with a design value greater than 12.7 ppm, and in other areas of the state as provided in this chapter.

(2) The enhanced motor vehicle inspection and maintenance program established pursuant to paragraph (1) shall be assessed jointly by the department and the state board periodically to determine whether changes in the program may be warranted. On or before January 1, 2003, the department and the state board shall jointly issue a report to the Legislature based on those periodic assessments, recommending any modifications to the enhanced program to improve its operations and lessen its impact on consumers while still achieving the necessary emission reductions to attain air quality standards.

(3) A basic vehicle inspection and maintenance program shall be continued in all other areas of the state where a program was in existence under this chapter as of the effective date of this paragraph.

(b) The department may prescribe different test procedures and equipment requirements for those areas described in subdivision (a). Program components shall be operated in all program areas unless otherwise indicated, as determined by the department. In those areas where the biennial program is not implemented and smog check inspections are required to complete the requirements set forth in Sections 4000.1 and 4000.2 of the Vehicle Code, program elements

that apply in basic areas, including test equipment requirements for smog check stations, shall apply.

(c) (1) Districts classified as attainment areas may request the department to implement all or part of the program elements defined in this chapter. However, the department shall not implement the program established by Section 44010.5 in any area other than an urbanized area, any part of which is classified by the Environmental Protection Agency as a serious, severe, or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide with a design value greater than 12.7 ppm.

(2) Districts that include areas classified as basic program nonattainment areas pursuant to subdivision (a) may, except as provided in paragraph (1), request the implementation in those areas of test procedures and equipment required for enhanced program areas and any other program requirement specified for enhanced program areas.

SEC. 3. Section 44021 of the Health and Safety Code is amended to read:

44021. (a) (1) The Inspection and Maintenance Review Committee is hereby created to analyze the effect of the improved inspection and maintenance program established by this chapter on motor vehicle emissions and air quality. The functions of the review committee shall be advisory in nature and primarily pertain to the gathering, analysis, and evaluation of information.

(2) The members of the review committee shall receive no compensation, but shall be reimbursed by the department for their reasonable expenses in performing committee duties. The state board and the department shall provide the review committee with any necessary technical and clerical support in its evaluation and study.

(3) (A) The review committee shall consist of 13 members, nine to be appointed by the Governor, two by the Senate Committee on Rules, and two by the Speaker of the Assembly. All members shall be appointed to four-year terms, and the Governor shall appoint from among his or her appointees the chairperson of the review committee.

(B) The appointees of the Governor shall include an air pollution control officer from an enhanced program nonattainment area, three public members, an expert in air quality, an economist, a social scientist, a representative of the inspection and maintenance industry, and a representative of stationary source emissions organizations.

(C) The appointees of the Senate Committee on Rules shall include an environmental member with expertise in air quality, and a representative from the inspection and maintenance industry.

(D) The appointees of the Speaker of the Assembly shall include an environmental member with expertise in air quality, and a representative of a local law enforcement agency charged with prosecuting violations of this chapter in an enhanced program nonattainment area.

(4) In preparing its evaluations of program effectiveness as provided in paragraph (1), the review committee shall consult with the Department of the California Highway Patrol, the Department of Motor Vehicles, and any other appropriate agencies, as well as the department and the state board, shall schedule and conduct periodic meetings in the performance of its duties, and shall meet and consult with local, state, and federal officials involved in the evaluation of motor vehicle inspection and maintenance programs. At the request of the committee, the department or the state board may, on behalf of the committee, contract with independent entities to assist in the committee's evaluations.

(b) The review committee shall submit periodic written reports to the Legislature and the Governor on the performance of the program and make recommendations on program improvements at least every 12 months. The review committee's reports shall quantify the reduction in emissions and improvement in air quality attributed to the program. Any reports, other than those required by this section, that the review committee is required to provide pursuant to this chapter shall also be transmitted to the Secretary for Environmental Protection and the Secretary for State and Consumer Services.

(c) The review committee shall work closely with all interested parties in preparing the information required by subdivisions (a) and (b) and shall consider the reports provided pursuant to subdivision (e). The review committee shall hold at least one public hearing on its findings and recommendations prior to submitting its reports. The reports shall include statutory language to implement its recommendations, and shall recommend the timeframe for making any changes to the program. The review committee shall seek comments from the department, the Department of Motor Vehicles, the Department of the California Highway Patrol, and the state board prior to submitting its reports, and those comments shall be published as an appendix to the report.

(d) The review committee shall participate in the demonstration program authorized by Section 44081.6, as provided by that section.

(e) The state board, in cooperation with the department, shall periodically submit reports to the review committee. The reports shall include an assessment of the impact on emissions of continuing the exemption from inspection of motor vehicles newer than five years old; a comparison of the actual mass emission reductions being achieved by the enhanced program to those required by the State Implementation Plan; and recommendations to improve the



effectiveness and cost-effectiveness of the program, including specific recommendations addressing any discrepancy between emissions achieved and those in the State Implementation Plan. The first report shall be submitted not later than January 1, 2000, and reports shall be submitted triennially thereafter. In preparing the reports, the state board shall use data collected during inspections and repair, and data collected using roadside measurements, and may conduct additional testing, as determined to be necessary, to accurately quantify the mass emissions reduced.

SEC. 4. Section 44024.5 is added to the Health and Safety Code, to read:

44024.5. (a) The department shall compile and maintain statistical and emissions profiles of motor vehicles that are subject to the motor vehicle inspection program. The department may use data from any source, including remote sensing data and other motor vehicle inspection program data, to develop and confirm the validity of the profiles.

(b) The department, in cooperation with the state board, shall perform periodic analyses of the statistical and emissions profiles created pursuant to subdivision (a). The department and the state board, in consultation with the Inspection and Maintenance Review Committee, may determine that, in addition to the vehicles excepted pursuant to Section 44011, certain other motor vehicles may be excepted from the biennial certification requirements of this chapter without significantly compromising the emission reduction objectives set forth in the State Implementation Plan (SIP).

(c) The department may conduct a pilot program to except from the biennial certification requirement those vehicles that may be jointly determined by the department and the state board, after consultation with the Inspection and Maintenance Review Committee, to warrant exception. The department shall provide written notification to the Legislature specifying the number of vehicles to be exempted as well as the geographic location and duration of the pilot program not less than 30 days prior to the implementation of the pilot program. The department shall submit the results of the pilot program to the state board and the Inspection and Maintenance Review Committee for review. Subject to the approval of the Environmental Protection Agency as an amendment to the SIP, the department may establish the exception program as a permanent program.

(d) For vehicles four model years old or less, the department shall use test data generated pursuant to Section 44014.7 to develop statistical and emissions profiles. The department may use data from any source, including remote sensing data, warranty repair and recall data, and other motor vehicle inspection program data, to develop and confirm the validity of the data. If the department and state board jointly determine that the emissions from a class of motor

vehicles would potentially compromise the emission reduction objectives set forth in the SIP, the state board shall consider appropriate corrective action, including, but not limited to, recall pursuant to Section 43105.

SEC. 5. Section 44037.1 of the Health and Safety Code is amended to read:

44037.1. (a) On or before January 1, 1995, the department shall design and establish the equipment necessary to operate a centralized computer data base and computer network that is readily accessible by all licensed smog check technicians on a real time basis.

(b) The centralized computer data base and network shall be designed with all of the following capabilities:

(1) To provide smog check technicians with immediate access to vehicle-specific information regarding the location of all emission control equipment, pattern failure data, and other vehicle-specific technical information relevant to the efficient identification, diagnosis, and repair of emission problems.

(2) To provide smog check technicians and the department with information as to the date and result of prior smog check tests performed on each vehicle to discourage vehicle owners from shopping for certificates of compliance and to permit the department to identify smog check stations for further investigation as potential violators of this chapter.

(3) To provide the department with data on the failure rates and repair effectiveness for vehicles of each make and model year on a statewide basis, and by smog check station and technician, to facilitate identification of smog check stations and technicians as potential violators of this chapter.

(4) Upon a determination that a smog check station or technician has engaged in a pattern of conduct violating this chapter, or that a vehicle failed one or more emissions tests before obtaining a certificate of compliance, to provide the information necessary to identify and contact vehicle owners who obtained certificates from the station or technician, or may have obtained certificates of compliance in violation of this chapter, for purposes of requiring the retesting of their vehicles.

(5) To be compatible with the eventual transition to a fully computerized smog certification program that will not require the use of printed certificates as evidence of compliance.

(6) To be compatible with bar code scanning of vehicles as provided in Section 44041.

(7) To permit ongoing entry of information from each smog check station into the centralized data base to enlarge and improve the data base on a continuous basis.

(8) To be compatible with the department's recordkeeping and compilation requirements established by Section 44037.

(9) To meet the needs of a remote-sensing program to identify gross polluters, as specified by the department.

(10) To meet any other needs specified by the department to enhance the benefits of the program through the storage of vehicle-specific information, such as that pertaining to voluntary repair and assistance and retirement programs and to the referee station program.

(c) After January 1, 1995, each smog check station shall transmit vehicle data emission test results to the department's centralized data base. Each smog check station shall also transmit vehicle data and emission measurements made before and after repair. The department shall establish, by regulation, the form, manner, and frequency of the data transmittals.

SEC. 6. Section 44060 of the Health and Safety Code is amended to read:

44060. (a) The department shall prescribe the form of the certificate of compliance or noncompliance, repair cost waivers, and economic hardship extensions.

(b) The certificates, repair cost waivers, and economic hardship extensions shall be in the form of an electronic entry filed with the department, the Department of Motor Vehicles, and any other person designated by the department. The department shall ensure that the motor vehicle owner or operator is provided with a written report, signed by the licensed technician who performed the inspection, of any test performed by a smog check station, including a pass or fail indication, and written confirmation of the issuance of the certificate.

(c) (1) The department shall charge a fee to a smog check station, including a test-only station, and a station providing referee functions, for a motor vehicle inspected at that station that meets the requirements of this chapter and is issued a certificate of compliance, a certificate of noncompliance, repair cost waiver, or economic hardship extension.

(2) The fee charged pursuant to paragraph (1) shall be calculated to recover the costs of the department and any other state agency directly involved in the implementation, administration, or enforcement of the motor vehicle inspection and maintenance program, and shall not exceed the amount reasonably necessary to fund the operation of the program, including all responsibilities, requirements, and obligations imposed upon the department or any of those state agencies by this chapter, that are not otherwise recoverable by fees received pursuant to Section 44034.

(3) Except for adjustments to reflect changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics, the fee for each certificate, waiver, or extension shall not exceed seven dollars (\$7).

(4) Fees collected by the department pursuant to this subdivision shall be deposited in the Vehicle Inspection and Repair Fund. It is the intent of the Legislature that a prudent surplus be maintained in the Vehicle Inspection and Repair Fund. If the surplus exceeds the reasonable costs of administration of the programs specified in this chapter and in Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, the department shall, by regulation, prescribe a lower fee for the certificates, waivers, and extensions.

(d) (1) Motor vehicles exempted under paragraph (4) of subdivision (a) of Section 44011 shall be subject to an annual smog abatement fee of four dollars (\$4). Payment of this fee shall be made to the Department of Motor Vehicles at the time of registration of the motor vehicle.

(2) Fees collected pursuant to this subdivision shall be deposited on a daily basis into the Vehicle Inspection and Repair Fund.

(e) The sale or transfer of the certificate, waiver, or extension by a licensed smog check station or test-only station to any other licensed smog check station or to any other person, and the purchase or acquisition of the certificate, waiver, or extension, by any person, other than from the department, the department's designee, or pursuant to a vehicle's inspection or repair conducted pursuant to this chapter, is prohibited.

(f) Following implementation of the electronic entry certificate under subdivision (b), the department may require the modification of the analyzers and other equipment required at smog check stations to prevent the entry of a certificate that has not been issued or validated through prepayment of the fee authorized by subdivision (c).

(g) The fee charged by licensed smog check stations to consumers for a certificate, waiver, or extension shall be the same amount that is charged by the department.

SEC. 7. Section 44081 of the Health and Safety Code is amended to read:

44081. (a) (1) The department, in cooperation with the state board, shall institute procedures for auditing the emissions of vehicles while actually being driven on the streets and highways of the state. The department may undertake those procedures itself or seek a qualified vendor of these services. The primary object of the procedures shall be the detection of gross polluters. The procedures shall consist of techniques and technologies determined to be effective for that purpose by the department, including, but not limited to, remote sensing. The procedures may include pullovers for roadside emissions testing and inspection. The department shall consider the recommendations of the review committee based on the outcome of the pilot demonstration program conducted pursuant to Section 44081.6.



(2) The department may additionally use other methods to identify gross polluting vehicles for out-of-cycle testing and repair.

(b) The department shall, by regulation, establish a program for the out-of-cycle testing and repair of motor vehicles found, through roadside auditing, to be emitting at levels that exceed specified standards. The program shall include all of the following elements:

(1) Emission standards, and test and inspection procedures and regulations, adopted in coordination with the state board, applicable to vehicles tested during roadside auditing. Emission standards for issuance of a notice of noncompliance to a gross polluter shall be designed to maximize the identification of vehicles with substantial excess emissions.

(2) Procedures for issuing notices of noncompliance to owners of gross polluters, either at the time of the roadside audit, or subsequently by certified mail, or by obtaining a certificate of mailing as evidence of service, using technologies for recording license plate numbers. The notice of noncompliance shall provide that, unless the vehicle is brought to a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 44014.5, for emissions testing within 30 days, the owner will be required to pay an administrative fee of five hundred dollars (\$500) to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership of the vehicle, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars (\$5) per day up to the five hundred dollars (\$500) maximum.

(3) Procedures for the testing of vehicles identified as gross polluters by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 44014.5, to confirm that the vehicle exceeds the minimum emission standard for gross polluters set by the department.

(4) Procedures requiring owners of vehicles confirmed as gross polluters to have the vehicle repaired, resubmitted for testing, and obtain a certificate of compliance from a designated test-only facility or removed from service as attested by a certificate of nonoperation from the Department of Motor Vehicles within 30 days or be required to pay an administrative fee of not more than five hundred dollars (\$500), to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars (\$5) per day up to the five hundred dollars (\$500) maximum.

The registration of a vehicle shall not be issued or renewed if that vehicle has been identified as a gross polluter and has not been issued a certificate of compliance. Except as provided in subdivision (b) of Section 9250.18 of the Vehicle Code, any revenues collected by the Department of Motor Vehicles pursuant to this subdivision and Section 9250.18 of the Vehicle Code shall be deposited in the Vehicle Inspection and Repair Fund. If the ownership of the vehicle is transferred, the administrative fee provided for in this subdivision shall be waived if the vehicle is brought into compliance.

(5) A procedure for notifying the Department of Motor Vehicles of notices of noncompliance issued, so that the Department of Motor Vehicles may provide effective collection of the administrative fee. The Department of Motor Vehicles shall cooperate with, and implement the requirements of, the department in that regard.

(c) The department may adopt any other regulations necessary for the effective implementation of this section, as determined by the department.

(d) Upon the request of the department, the Department of the California Highway Patrol shall provide assistance in conducting roadside auditing, to consist of (1) the stopping of vehicles and traffic management, and (2) the issuance of notices of noncompliance to gross polluters. The department shall reimburse the Department of the California Highway Patrol for its costs of providing those services. The Department of Transportation and affected local agencies shall provide necessary assistance and cooperation to the department in the operation of the program.

(e) There shall be no repair cost limit imposed pursuant to Section 44017 for any repairs that are required to be made under the roadside auditing program, except as provided in subdivision (c) of Section 44017.

(f) This section does not apply to vehicles operating under a valid repair cost waiver or economic hardship extension issued pursuant to Section 44015.

SEC. 8. Section 44091 of the Health and Safety Code is amended to read:

44091. (a) The High Polluter Repair or Removal Account is hereby created in the Vehicle Inspection and Repair Fund. All money deposited in the account pursuant to this article and subdivision (d) of Section 6262 of the Revenue and Taxation Code shall be available, upon appropriation by the Legislature, to the department and the state board to establish and implement a program for the repair or replacement of high polluters pursuant to Section 44062.1 and Article 10 (commencing with Section 44100).

(b) The department may accept donations or grants of funds from any person for purposes of the program and shall deposit that money in the account. Donations, grants, or other commitments of money to the account may be dedicated for specific purposes consistent with

the uses of the account, including, but not limited to, purchasing higher emitting vehicles for the purpose of achieving the emission reductions required by the M-1 strategy of the 1994 State Implementation Plan (SIP).

(c) The funds which are available in the account in any fiscal year for a particular area that is subject to an inspection and maintenance program shall be distributed to reflect the number of vehicles registered in that area to the total number of vehicles registered in areas that are subject to inspection and maintenance programs. That percentage shall be the percentage of the total funds allocated to the program in that fiscal year which are available for that particular area.

(d) During any fiscal year, the money in the account shall be available, upon appropriation by the Legislature, for the following purposes:

(1) Assistance in the repair of high polluters pursuant to the program established pursuant to Section 44062.1.

(2) Voluntary accelerated retirement of high polluters.

(3) Rulemaking, vehicle testing, and other technical work required to implement and administer the repair assistance program established pursuant to Section 44062.1 and the program described in Article 10 (commencing with Section 44100).

(e) An amount of one million dollars (\$1,000,000) annually for the 1997–98 fiscal year and the 1998–99 fiscal year shall be made available from the account for a program to evaluate the emission reduction effectiveness of the M-1 strategy of the 1994 SIP.

(f) All remaining amounts in the account shall be available to the program of repair assistance established pursuant to Section 44062.1.

(g) In no case shall the funding available in any subsequent fiscal year to the department for repairing or removing high-emitting vehicles under the inspection and maintenance program be less than the amount made available from the Vehicle Inspection and Repair Fund for that purpose in the 1995–96 fiscal year.

SEC. 9. Section 44091.1 is added to the Health and Safety Code, to read:

44091.1. On or after July 1, 1998, in the event that the smog impact fee imposed pursuant to Section 6262 of the Revenue and Taxation Code is ruled unconstitutional by an appellate court or the California Supreme Court, or if the state is in any manner prevented by either of these courts from imposing or collecting the fee, all of the following actions shall immediately take place:

(a) The fee specified in paragraph (1) of subdivision (d) of Section 44060 shall be six dollars (\$6). The revenues from that fee shall be allocated as follows:

(1) Except as provided for in paragraph (2), the revenue generated by two dollars (\$2) of the fee shall be deposited in the account created by Section 44091, while the revenue generated by

the remaining four dollars (\$4) shall continue to be deposited in the Vehicle Inspection and Repair Fund.

(2) All revenue generated by the fee imposed at first registration of a motor vehicle exempted under paragraph (4) of subdivision (a) of Section 44011 shall be deposited in the account created by Section 44091.

(b) (1) Except as specified in paragraph (2), this section shall remain in effect only until January 1, 2005, and as of that date shall become inoperative, unless a later enacted statute, that is enacted before June 30, 2004, deletes or extends that date.

(2) With respect to motor vehicles registered in the south coast district, this section shall remain in effect until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2009, deletes or extends that date.

SEC. 10. Section 44101 of the Health and Safety Code is amended to read:

44101. Not later than December 31, 1998, the state board shall adopt, by regulation, a statewide program to commence in 1999 that does all of the following:

(a) Provides for the creation, exchange, use, and retirement of light-duty vehicle mobile source emission reduction credits. The credits shall be fungible and exchangeable in the marketplace, and shall reflect the actual emissions of the vehicles that are retired or otherwise disposed of, by measurement, appropriate sampling, or correlations developed from appropriate sampling. The numerical value of credits may be constant over a defined lifetime, or may decline with age measured from the time of origination of the credits. In all cases, the numerical value of the credits shall reflect the useful life expectancies and the projected in-use emissions of the retired vehicles in a manner consistent with the assumptions used in determining the emissions inventory. The credits shall be fully recognized by the United States Environmental Protection Agency, the state board, and the districts.

(b) Sets out the criteria for retiring or otherwise disposing of high-emitting vehicles purchased for this program.

(c) Authorizes the issuance of those credits to private entities that purchase and properly retire high-emitting vehicles.

(d) Authorizes the resale of those credits to public or private entities to be used to achieve the emission reduction requirements of the 1994 state implementation plan, meet the requirements of the inspection and maintenance program, satisfy compliance with other emission reduction mandates, as determined by the district or the state board, create local growth allowances, or satisfy new or modified source emission offset requirements. Nothing in this article limits a district's authority to apply emission discount factors pursuant to district rules that regulate emissions banks, trades, or offsets.

- (e) Provides for the retirement of those credits when used.
- (f) Includes accounting procedures to credit emissions reductions achieved through vehicle scrappage to the M-1 strategy of the 1994 SIP and the inspection and maintenance program.
- (g) Contains a program plan pursuant to Section 44104.5.
- (h) Satisfies the attributes described in subdivision (e) of Section 44100.

SEC. 11. Section 6262 of the Revenue and Taxation Code is amended to read:

6262. (a) In addition to any other fees and taxes required to be paid by the Vehicle Code and this code at the time of the registration of a motor vehicle, as defined in Section 415 of the Vehicle Code, a person making application to register a 1975 or subsequent model year gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered motor vehicle which is subject to the requirements of Section 4000.2 of the Vehicle Code shall pay to the Department of Motor Vehicles a motor vehicle smog impact fee of three hundred dollars (\$300) for any such motor vehicle which, prior to the date of application, was last registered outside this state, unless the motor vehicle has been certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code to meet the California carbon monoxide (CO), hydrocarbon (HC), and oxides of nitrogen (NO_x) emission standards for the applicable model year, and the California emission standard for that vehicle in that model year is more stringent than the federal emission standards for CO, HC, or NO_x for that vehicle in that model year. This subdivision does not authorize the registration of motor vehicles that are prohibited from being brought into this state pursuant to Article 1.5 (commencing with Section 43150) of Chapter 2 of Part 5 of Division 26 of the Health and Safety Code.

(b) The determination that a vehicle is subject to the fee imposed pursuant to this section shall be made by the Department of Motor Vehicles, or its designee.

(c) (1) For purposes of this chapter, if a motor vehicle does not have affixed a vehicle emission control label from which the Department of Motor Vehicles may determine whether the vehicle is California-certified, the vehicle shall be presumed not to be California-certified unless confirmed to be by the manufacturer.

(2) Any manufacturer of light-duty motor vehicles doing business in California shall provide information, within 30 days from the date of the receipt of a request from the Department of Motor Vehicles, stating whether a vehicle, identified in the request by the vehicle identification number (VIN) assigned by the manufacturer in accordance with federal law, has been certified for sale in California pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code.



(3) For purposes of this subdivision, “vehicle emission control label” means the permanent label that vehicle manufacturers are required to affix to motor vehicles certified by the State Air Resources Board for sale in California in accordance with Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code and pursuant to Sections 1965 and 1965.5 of Title 13 of the California Code of Regulations.

(d) After deduction of all costs incurred by the department in carrying out this section that have been approved by the Department of Finance, the revenues received pursuant to this section shall be deposited in the General Fund through June 30, 1998. On and after July 1, 1998, those revenues shall be deposited in the High Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund created pursuant to subdivision (a) of Section 44091 of the Health and Safety Code and shall be available solely for the purpose of funding the low-income repair assistance program established pursuant to Section 44062.1 of the Health and Safety Code and the voluntary accelerated retirement of high-emission motor vehicles as specified in subdivisions (d) and (f) of Section 44091 of the Health and Safety Code.

(e) This section does not apply to any of the following:

(1) A commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight in excess of 6,000 pounds.

(2) Any vehicle owned by a person who, pursuant to military orders or within three years following the date of discharge from or release from active duty in the armed forces of the United States, enters California for the purpose of establishing or reestablishing residence or accepting gainful employment, if the vehicle was acquired by the owner in a foreign jurisdiction where those military orders required the owner’s presence.

(3) Any vehicle that is required to be registered on or after January 1, 1993, that has been subject to the fee imposed by this section within the prior four years, if the emission control devices and systems were not modified out of state subsequent to the previous payment of that fee.

(f) Notwithstanding any other provision of law, the fee imposed pursuant to subdivision (a) is imposed pursuant to the Sales and Use Tax Law.

SEC. 12. Section 4000.7 of the Vehicle Code is repealed.

SEC. 13. This act shall become operative only if both Assembly Bill 57 and Assembly Bill 1492 of the 1997–98 Regular Session of the Legislature are enacted and take effect on or before January 1, 1998.